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August 10, 2004

VIA ELECTRONIC FILING

Civil Clerk's Office
United States District Court
For The District of Massachusetts
Federal Building and Courthouse
1150 Main Street
Springfield, MA 01103

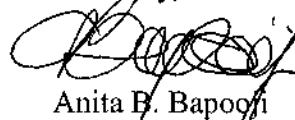
RE: *Pittsfield Generating Co. v. Devon Canada Corp.*,
04-30128-MAP

Dear Sir or Madam:

Enclosed for filing in the above-captioned matter please find the Defendant's Motion to Hold in Abeyance Its Obligation to Respond to the Complaint or in the Alternative for an Extension of Time. Please note that this motion requests an extension for an answer or responsive pleading potentially due on August 17, 2004.

Please contact me if you have any questions.

Sincerely,



Anita B. Bapooji

ABB/hmk

Enclosure

cc: Michelle C. Pardo, Esq.
Robert J. Muldoon, Esq.
David A. Brown, Esq.

3104509_1

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PITTSFIELD GENERATING COMPANY, L.P.,

Plaintiff,

v.

DEVON CANADA CORPORATION,

Defendant.

Civil Action No:
04-30128-MAP

**DEFENDANT'S MOTION TO HOLD IN ABEYANCE
ITS OBLIGATION TO RESPOND TO THE COMPLAINT
OR IN THE ALTERNATIVE FOR AN EXTENSION OF TIME**

Devon Canada Corporation ("Devon") respectfully requests that the Court grant its motion to hold in abeyance its obligation to respond to the Complaint filed in the above-captioned matter. In the alternative, Devon seeks an extension of time to respond to the Complaint. In support of this motion, Devon states as follows:

1. On July 8, 2004, Pittsfield Generating Company, L.P. ("PGC") filed a complaint against Devon in this Court. Devon is a Canadian company, with its principal place of business in Calgary, Alberta, Canada. Complaint ¶ 3.

2. PGC delivered a copy of the summons and complaint to the offices of Devon in Calgary, Alberta, Canada on July 28, 2004.¹ Devon's answer or responsive pleading potentially is due on August 17, 2004.

¹ Devon does not concede, and indeed intends to object to this method of service as being improper and ineffective under the Federal Rules of Civil Procedure and the Hague Convention. Absent a stay of the proceedings, Devon intends to file motions to dismiss pursuant to Fed. R. Civ. P. 12 and similar grounds.

3. Devon's counsel in the United States recently has been retained and has not had the opportunity to adequately review the issues, which will include an analysis of foreign law and process. Devon's counsel therefore requires additional time to review the Complaint and these issues and prepare an adequate response.


4. Moreover, a parallel action involving Devon and PGC is pending in Canada, in the Court of Queen's Bench of Alberta, Judicial District of Calgary. (No. 0401-10854). In that case, PGC sought an extension of time in which to file a responsive pleading due in the Canadian action, which it received contingent upon PGC's agreement to file an undertaking "not to take any steps in the Massachusetts Proceeding without first obtaining the leave of [the Alberta] Court." See Order of Alberta Court (attached hereto as Exhibit A).

5. In the Canadian action, PGC is not required to file a responsive pleading until the Alberta court conducts a hearing on jurisdictional issues, which is scheduled for September 1, 2004. Devon therefore requests that this Court hold in abeyance Devon's obligation to respond to the Complaint in the instant action until 10 days following the Alberta court's ruling on the jurisdictional issues, which is set for hearing on September 1, 2004. It is the understanding of Devon's counsel that a ruling on these issues is expected immediately following the hearing or shortly thereafter. In the alternative, Devon requests an extension of thirty (30) days from August 17, 2004 in which to respond to the Complaint.

WHEREFORE, for the foregoing reasons, Defendant Devon Canada Corporation respectfully requests that this Court hold in abeyance Devon's obligation to respond to the Complaint until 10 days following the Alberta court's ruling on the jurisdictional issues, which is set for hearing on September 1, 2004, or, in the alternative, a thirty day extension of time up to and including September 16, 2004, and/or grant such further relief as the Court deems appropriate.

Dated: Boston, Massachusetts
August 10, 2004

Respectfully submitted,



William L. Pickett (BBO #555341)
Anita B. Bapooji (BBO #644657)
Testa, Hurwitz & Thibault, LLP
125 High Street
Boston, MA 02110
Telephone: 617-248-7000
Facsimile: 617-248-7100

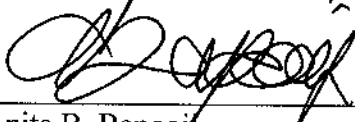
Counsel for Defendant
Devon Canada Corporation

John M. Simpson
Michelle C. Pardo
Fulbright & Jaworski, LLP
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: 202-662-0200
Facsimile: 202-662-4643

Of Counsel
Devon Canada Corporation

CERTIFICATION UNDER LOCAL RULE 7.1

I certify that, pursuant to Local Rule 7.1, counsel for the parties have conferred in good faith regarding this Motion on August 9, 2004 and the parties have not been able to reach any agreement.




Anita B. Bapooji
Counsel for Defendant
Devon Canada Corporation

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Motion To Hold In Abeyance Its Obligation To Respond To The Complaint Or In The Alternative For An Extension Of Time was served on the 10th day of August, 2004, via first class mail, postage prepaid, on the following:

Robert J. Muldoon
David A. Brown
Sherin and Lodgen LLP
101 Federal Street
Boston, MA 02110



Anita B. Bapooji

EXHIBIT A

I hereby certify this to be a true copy of
the original Order
Dated this 9 day of Aug 2004
for the Court

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

DEVON CANADA CORPORATION

Plaintiff

-and-

PE-PITTSFIELD, LLC and PUREENERGY I, LLC, both carrying on business
under the firm name and style of PITTSFIELD GENERATING COMPANY, LP
and the said PITTSFIELD GENERATING COMPANY, LP, ALTRESCO, INC.
(sometimes known as ALTRESCO INCORPORATED) carrying on business
under the firm name and style of PITTSFIELD GENERATING COMPANY, LP
(formerly known as ALTRESCO PITTSFIELD, LP) and the said PITTSFIELD
GENERATING COMPANY, LP (formerly known as ALTRESCO PITTSFIELD, LP)

Defendants

BEFORE THE HONOURABLE
ASSOCIATE CHIEF JUSTICE
A.B. SULATYCKY
IN PRIVATE CHAMBERS

) At the Court House, in the City of Calgary in the
) Province of Alberta, on Thursday the 5th day of
) August, 2004.
)

ORDER

UPON HEARING THE APPLICATION brought on behalf of all of the Defendants with
the exception of Altresco, Inc.; AND UPON HEARING the separate application brought on behalf
of Altresco Inc.; AND UPON NOTING that a claim was filed by Pittsfield Generating Company,
LP against Devon Canada Corporation in the State of Massachusetts on July 8, 2004 (the
"Massachusetts Proceeding"); AND UPON BEING REFERRED to the Affidavits of Henry H.

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Assen, filed; AND UPON HEARING the arguments of counsel for all parties;

IT IS HEREBY ORDERED THAT:

1. The Defendants' Applications regarding forum and jurisdictional issues will be heard for 1 day on the Civil Trial list on September 1, 2004, starting at 10:00 am; -
2. Any requirements for the Defendants in this action to file Statements of Defence are hereby deferred, subject to the condition that Pittsfield Generating Company, LP file with this Court an undertaking not to take any steps in the Massachusetts Proceeding without first obtaining the leave of this Court (the "Undertaking"), all pending the decision by this Court in respect of the Applications now set for September 1, 2004;
3. Notwithstanding anything in paragraph 2, the Undertaking shall not in any way prevent Pittsfield Generating Company, LP from responding to any motion brought in the Massachusetts Proceeding by Devon Canada Corporation dealing with forum, jurisdiction or service of process, and it is not intended that the Undertaking would in any way affect any process or rules applicable to the Massachusetts proceeding which might operate independent of any steps taken by Pittsfield Generating Company LP;
4. The parties will comply with the following deadlines:
 - a) Devon Canada Corporation will file and serve any further Affidavit material on which it intends to rely no later than ~~Monday~~ ^{Tuesday}, August ~~10~~ ¹¹, 2004, at 12:00 noon. *ABS*
 - b) Cross-examinations on the Affidavits filed on behalf of Devon Canada Corporation will be conducted on Thursday, August 12, 2004;
 - c) The Defendants will file and serve any Affidavits on which they intend to rely no later

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than Monday, August 16, 2004;

- d) Cross-examinations on the Affidavit filed on behalf of the Defendants will be conducted on either August 19 or August 20, 2004;
- e) The Defendants' Briefs of Argument will be filed and served no later than August 23, 2004; and Devon Canada Corporation's Brief of Argument will be filed and served no later than Friday, August 27, 2004.



J.C.C.Q.B.A..

APPROVED AS BEING THE ORDER GRANTED:

Carscallen Lockwood LLP

Per: 

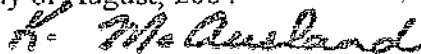
Stan Carscallen, Q.C.
Solicitors for the Plaintiff

Blake Cassels & Graydon LLP

Per: 

Bryan C. Duguid
Solicitors for the Defendant Altresco, Inc.

ENTERED this 9
day of August, 2004



Clerk of the Court

COURT
SEAL

Action No. 0401-10854

IN THE COURT OF QUEEN'S BENCH OF
ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

DEVON CANADA CORPORATION

Plaintiff

-and-

PE-PITTSFIELD, LLC and PUREENERGY I, LLC,
both carrying on business under the firm name and
style of PITTSFIELD GENERATING COMPANY,
LP and the said PITTSFIELD GENERATING
COMPANY, LP, ALTRESCO, INC. (sometimes
known as ALTRESCO INCORPORATED)
carrying on business under the firm name and style
of PITTSFIELD GENERATING COMPANY, LP
(formerly known as ALTRESCO PITTSFIELD, LP)
and the said PITTSFIELD GENERATING
COMPANY, LP (formerly known as ALTRESCO
PITTSFIELD, LP)

Defendants

ORDER

MAY JENSEN SHAWA SOLOMON LLP
#800 The Lancaster Building
304 - 8th Avenue SW
Calgary, Alberta T2P 1C2
Attention: Carsten Jensen
Phone: (403) 571-1526
Fax: (403) 571-1528

CLERK OF THE COURT
AUG - 9 2004
CALGARY, ALBERTA

File No. 10190 001